



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्या शासन द्वारा प्रकाशित

शिमला, शनिवार, 28 दिसम्बर, 1996/7 पोष, 1918

हिमाचल प्रदेश सरकार

विधि विभाग

[विधायी (अंग्रेजी) शाखा]

अधिसूचना

शिमला-2; 28 दिसम्बर, 1996

संख्या एल० एल० आर० डी०(6)-36/96-लेजि०.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 213 के खण्ड (1) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए तारीख 26-12-1996 को प्रस्थापित

हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) अध्यादेश, 1996 (1996 का अध्यादेश संख्याक 4) को, संविधान के अनुच्छेद 348 के (3) के अधीन उसके प्राधिकृत पाठ सहित, राजपत्र, हिमाचल प्रदेश में प्रकाशित करने हैं।

आदेश द्वारा, (

हस्ताक्षरित/-

सचिव । .

1996 का हिमाचल प्रदेश अध्यादेश संख्यांक 4

हिमाचल प्रदेश अभिवृत्त और भूमि सुधार (संशोधन) अध्यादेश, 1996

हिमाचल प्रदेश टैनेन्सी एण्ड लैंड रिफॉर्मज ऐक्ट, 1972 (1974 का 8) का और संशोधन के लिए अध्यादेश;

भारत गणराज्य के सैतालीसवें वर्ष में हिमाचल प्रदेश के राज्यपाल द्वारा प्रख्यापित,

हिमाचल प्रदेश राज्य विधान सभा सत्र में नहीं है और राज्यपाल का समाधान हो गया है कि ऐसी परिस्थितियाँ विद्यमान हैं जिनके कारण तुरन्त कार्यवाही करना उनके लिए आवश्यक हो गया है,

और इस अध्यादेश को प्रख्यापित करने के लिए भारत के राष्ट्रपति के अनुदेश अभिप्राप्त कर लिए गए हैं।

अतः राज्यपाल, भारत के संविधान के अनुच्छेद 213 के खण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अध्यादेश प्रख्यापित करते हैं:—

1. इस अध्यादेश का संक्षिप्त नाम हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) अध्यादेश, 1996 है।

संक्षिप्त नाम।

2. हिमाचल प्रदेश टैनेन्सी एण्ड लैंड रिफॉर्मज ऐक्ट, 1972 (1974 का 8) (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 2 के खण्ड (2) में "person" शब्द के स्थान पर शब्द "landowner" रखा जाएगा।

धारा 2 का संशोधन।

3. मूल अधिनियम की धारा 118 में,—

धारा 118 का संशोधन।

(1) उप धारा (1) में स्पष्टीकरण के स्थान पर, निम्नलिखित स्पष्टीकरण रखा जाएगा, अर्थात्:—

“Explanation.—For the purpose of this sub-section, the expression “transfer of land” shall not include —

- (i) transfer by way of inheritance;
- (ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;
- (iii) transfer by way of lease of land or building in a municipal area;

but shall include—

- (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non agriculturist; and

(b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land."

(ii) उप द्वारा (2) में—

(क) खण्ड (d) के पश्चात् निम्नलिखित खण्ड (dd) अन्तःस्थापित किया जाएगा, अर्थात् :—

"(dd) a person who, on commencement of this Act, worked and continues to work for gain in an estate situated in Himachal Pradesh; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed—

(i) in case of a dwelling house ... 500 square metres;

(ii) in case of a shop or commercial establishment, ... 300 square metres;

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the State";

(ख) खण्ड (e) में "or a statutory body", शब्दों से पहले

"or a company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894" शब्द अन्तःस्थापित किए जाएंगे;

(ग) खण्ड (f) के स्थान पर निम्नलिखित खण्ड रखा जाएगा :—

"(f) a person who has become non-agriculturist on account of—

(i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894; or

(ii) vestment of his land in the tenants under this Act; or."

(घ) प्रथम परन्तुक में "clause (g)," शब्द कोष्ठक और अक्षर के स्थान पर "clause (dd) or clause (g)", शब्द कोष्ठक और अक्षर रखे जाएंगे;

(ङ) द्वितीय परन्तुक में "non-agriculturist", के पश्चात् "who purchases land under clause (dd) or" शब्द कोष्ठक और अक्षर जोड़े जाएंगे;

(3) उप द्वारा 3-B में "and after making such enquiry as he thinks fit either personally or through an officer working under him" शब्दों का लोप किया जाएगा और अन्त में "and the order made by the Divisional Commissioner shall be final and conclusive" शब्द जोड़े जाएंगे;

(4) उप-धारा (3-C) के स्थान पर निम्नलिखित उप-धारा रखी जाएगी, अर्थात्:—

“(3-C) (a) The Financial Commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(b) No order shall be passed under this sub-section which adversely affects any person unless such person has been given a seasonable opportunity of being heard.”;

(5) उप-धारा (3-D) में तीसरी बार आये “appeal” शब्द के स्थान पर “revision” शब्द रखा जाएगा ;

(6) उप-धारा (4) के पश्चात् विद्यमान स्पष्टीकरण को स्पष्टीकरण-I के रूप में पुनः संख्यांकित किया जाएगा और उसके अन्त में “but shall not include a built up area in the municipal area” शब्द जोड़े जाएंगे ; and

(7) इस प्रकार पुनः संख्यांकित स्पष्टीकरण के पश्चात् निम्नलिखित स्पष्टीकरण-II जोड़ा जाएगा अर्थात्:—

“Explanation-II.—For the purpose of this section the expression “municipal area” means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force.”.

शिमला
दिनांक 26-12-1996

महावीर प्रसाद
राज्यपाल ।

कुलदीप चन्द सूद,
सचिव (विधि) ।

(AUTHORITATIVE ENGLISH TEXT)

H. P. Ordinance No. 4 of 1996.

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS
(AMENDMENT) ORDINANCE, 1996

Promulgated by the Governor of Himachal Pradesh in the
Forty-seventh Year of the Republic of India ;

AN
ORDINANCE

*further to amend the Himachal Pradesh Tenancy and Land Reforms
Act, 1972 (Act No. 8 of 1974);*

Whereas the Legislative Assembly of Himachal Pradesh is not
in session and the Governor of Himachal Pradesh is satisfied that
circumstances exist which render it necessary for him to take im-
mediate action;

And whereas the instructions of the President of India to
promulgate this Ordinance have been obtained.

Now, therefore, in exercise of the powers conferred by clause
(1) of article 213 of the constitution of India, the Governor of
Himachal Pradesh is pleased to make and promulgate the following
Ordinance:—

Short title.

1. This Ordinance may be called the Himachal Pradesh Tenancy
and Land Reforms (Amendment) Ordinance, 1996.

Amendment
of section 2.

2. In section 2 of the Himachal Pradesh Tenancy and Land
Reforms Act, 1972 (Act No. 8 of 1974) hereinafter called the principal
Act, in clause (2), for the word "person", the word "landowner"
shall be substituted.

Amendment
of section
118.

3. In section 118 of the principal Act—
(i) in sub-section (1), for the explanation, the following
shall be substituted, namely:—

“Explanation.—For the purpose of this sub-section, the
expression “transfer of land” shall not include—

- (i) transfer by way of inheritance ;
- (ii) transfer by way of gift made or will executed, in
favour of any or all legal heirs of the donar or the testator,
as the case may be;
- (iii) transfer by way of lease of land or building in a
municipal area;

but shall include:—

- (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and
 - (b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of the land.”;
- (ii) in sub-section (2)—

- (a) after clause (d), the following clause (dd) shall be inserted, namely:—

“(dd) a person who, on commencement of this Act, worked and continues to work for gain in estate situated in Himachal Pradesh; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed—

- (i) in case of dwelling house....500 square metres; and
- (ii) in the case of shop or...300 square metres; commercial establishment:

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the State;”;

- (b) in clause (e) before the words “or a statutory body”, the words “or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894” shall be inserted;

- (c) for clause (f), the following clause shall be substituted, namely:—

“(f) a person who has become non-agriculturist on account of—

- (i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894; or
- (ii) vestment of his land in the tenants under this Act; or”;

- (d) in the first proviso, for words, brackets and alphabet “clause (g)”, the words, brackets and alphabets “clause (dd) or clause (g)” shall be substituted;

- (e) in the second proviso after the word “non-agriculturist”, the words, brackets and alphabets “who purchases land under clause (dd) or” shall be added;

- (iii) in sub-section (3-B), the words "and after making such enquiry as he thinks fit either personally or through an officer working under him" shall be omitted and at the end, the words "and the order made by the Divisional Commissioner shall be final and conclusive" shall be added;
- (iv) for sub-section (3-C), the following sub-section shall be substituted, namely:—
- "(3-C)(a) The Financial Commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.
- (b) No order shall be passed under this sub-section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.";
- (v) in sub-section (3-D), for the word "appeal" appearing for the third time, the word "revision" shall be substituted;
- (vi) after sub-section (4), the existing Explanation shall be numbered as Explanation-I and at the end, the words "but shall not include a built up area in the municipal area" shall be added; and
- (vii) after Explanation-I, so numbered, the following Explanation-II, shall be added, namely:—
- "Explanation-II.—For the purpose of this section the expression "municipal area" means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force."

SHIMLA,
the 26th December, 1996

MAHAVIR PRASAD
Governor

KULDIP CHAND SOOD,
Secretary (Law).